

Application No.: 10/809,960  
Amendment dated: October 16, 2007  
Reply to Office Action of April 17, 2007  
Attorney Docket No.: 21295.78 (1157801US)

### REMARKS/ARGUMENTS

Claims 1-10 are pending in this application.

Claims 3, 4, 7-10 had been objected to. These Claims have been amended to overcome these objections. Claims 1, 2 and 7 have been amended for clarity.

Claims 4, 9 and 10 had been rejected under 35 U.S.C. §112 second paragraph. Applicant believes that the Claims as amended are now in compliance with 35 U.S.C. §112, second paragraph.

Claims 1-10 had been rejected under 35 U.S.C. §102(e) over Garakani et al. (US Patent Application Publication No. 2003/0185450 A1). These rejections are respectfully traversed for the following reasons.

It is well established that a claim is anticipated under 35 U.S.C. §102, only if each and every element of the claim is found in a single prior art reference.<sup>1</sup> Moreover, to anticipate a claim under 35 U.S.C. §102, a single source must contain each and every element of the claim "arranged as in the claim."<sup>2</sup> Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference.<sup>3</sup> If each and every element of a claim is not found in a single reference, there can be no anticipation.

Claim 1 comprises user defining virtual reference subjects within acquired images in order to define regions.

A virtual reference subject of Claim 1 is a location or a group of locations in an image or a sequence of images, see, for example, paragraphs [0035], [0037], [0039], and [0040] of the Specification.

<sup>1</sup> Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987).

<sup>2</sup> Structural Rubber Prods. Co. v. Park Rubber Co., 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984).

<sup>3</sup> Lewmar Marine Inc. v. Barient, Inc., 827 F.2d 744, 747, 3 U.S.P.Q. 2d 1766, 1768 (Fed. Cir. 1987), cert. denied, 484 U.S. 1007 (1988).

<sup>4</sup> Titanium Metals Corp. v. Banner, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985).

Application No.: 10309,960  
Amendment dated: October 16, 2007  
Reply to Office Action of April 17, 2007  
Attorney Docket No.: 21295.78 (1157801'S)

Examiner equates virtual reference subjects of Claim 1 and "window size" in paragraph [0184], line 4 of Garakani (see Office Action, page 4, third paragraph from the bottom).

However, paragraph [0184], lines 3-4, of Garakani actually discusses "attention window size", which is defined as the length of a frame sequence (paragraph [0117] of Garakani).

In other words, the term "window size" in Garakani refers to a length of a sequence of frames, as opposed to term "virtual reference subject" of Claim 1, which refers to a location or a group of locations in an image or a sequence of images.

Therefore, the element of user defining virtual reference subjects of Claim 1 is absent in Garakani.

Claim 1 comprises user defining virtual reference subjects within acquired images in order to define regions.

Regions of Claim 1 are locations within images; see, for example, paragraphs [0036] and [0038] of the Specification.

Examiner states that Fig. 1, numeral 107, of Garakani shows defining regions: see Office Action, page 4, third paragraph from the bottom.

However, Fig. 1 of Garakani does not show user defining any regions within images. Numeral 107, in particular, is defined in paragraph [0111] of Garakani as "the output of the sensor", i.e. the entire image.

Therefore, the element of "in order to define regions" of Claim 1 is absent in Garakani.

Claim 1 comprises identifying an optical flux.

Application No.: 10/809,960  
Amendment dated: October 16, 2007  
Reply to Office Action of April 17, 2007  
Attorney Docket No.: 21295.78 (115780US)

The optical flux of Claim 1 is a way of describing "the motion of the grayscale values from one image to the next" (paragraph [0023] of the Specification).

Examiner equates optical flux of Claim 1 with numeral 605 on Fig. 6 of Garakani (last two lines of page 4 of the Office Action).

Examiner further states that the elements of applying the identified optical flux to the defined reference subjects and of performing interactions on the reference subject modified by the optical flux of Claim 1 are found on Fig. 6 of Garakani (first two paragraphs of page 5 of the Office Action).

Fig. 6 of Garakani shows a succession of image frames without any actual images or features within the frames. Numeral 605 is identified in Garakani as moving attention window (paragraph [0173]), which, in turn, is defined as "a frame sequence" (paragraph [0117]).

Fig. 6 of Garakani does not show any motion of the grayscale values from one image to the next, and, therefore, it does not show the optical flux of Claim 1.

The elements of user defining virtual reference subjects within acquired images in order to define regions; of optical flux; of applying the identified optical flux to the defined reference subjects; and of performing interactions on the reference subject modified by the optical flux of Claim 1 are not taught or suggested in Garakani. Therefore, Claim 1 is patentable over Garakani under 35 U.S.C. §102(e) and should be allowed.

The above-presented argument also supports patentability of Claims 2-5. Allowance of the referenced Claims is respectfully solicited.

Claim 6 comprises user interactively defining virtual reference subjects on the image shown on the display using the input unit for position definition.

Application No.: 10/809,960  
Amendment dated: October 16, 2007  
Reply to Office Action of April 17, 2007  
Attorney Docket No.: 21295.78 (H5780US)

A virtual reference subject of Claim 6 is a location or a group of locations in an image or a sequence of images, see, for example, paragraphs [0035], [0037], [0039], and [0040] of the Specification.

Examiner states that Fig. 1 of Garakani shows user interactively defining virtual reference subjects on the image shown on the display using the input unit for position definition (without stating where or what numerals specifically show it); see Office Action, page 7, paragraph (f).

However, Fig. 1 of Garakani does not show user defining any regions within images.

The element of user interactively defining virtual reference subjects on the image shown on the display using the input unit for position definition of Claim 6 is not taught or suggested in Garakani. Therefore, Claim 6 is patentable over Garakani under 35 U.S.C. §102(c) and should be allowed.

The above-presented argument also supports patentability of Claims 7-10. Allowance of the referenced Claims is respectfully solicited.

It is believed that the present application is in condition for allowance. A Notice of Allowance is respectfully solicited in this case. Should any questions arise, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,

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